

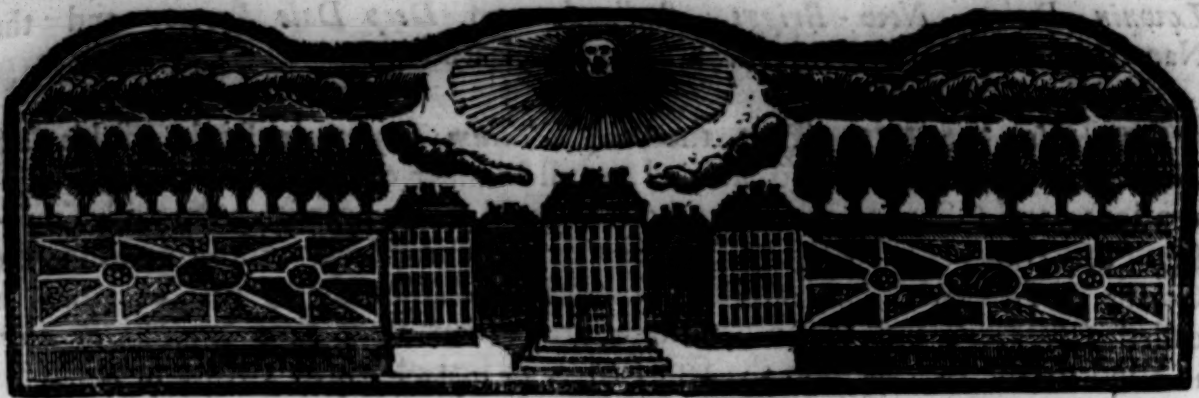
X Great Brit Quall.

73.

212. K. 8
73

(1)

England - Parliament [Bills - II. George II.]



Read 27 Jan. 1755

Enacted 28 Geo II Private Acts, c. 27

A BILL for dividing and inclosing several open Fields and Pastures, or Commons, in the Township of Nunburnholme, in the County of York.



Whereas by Articles of Agreement, indented, bearing Date the twelfth Day of December, One Thousand seven Hundred and Fifty-four, and made, or mentioned to be made, between the Right Honourable Henry Earl of Carlisle, Lord of the Manor of Nunburnholme, in the County of York, and also Owner of several Messuages, Cottages, Frontsteads, Lands and Tenements within the Township of Nunburnholme, aforesaid, of the first Part, the Reverend William Cayley, Clerk, Rector of the Parish Church of Nunburnholme, aforesaid, (to which Rectory all Manner of Tythes, Oblations, Obventions, and Offerings arising, and renewing within the said Parish do belong) and Owner as Rector, as aforesaid, of the Parsonage House, and several Lands and Tenements in the said Township, of the second Part, and the several other Persons whose Names and Seals are thereunto subscribed, and set, being Owners and Proprietors of divers Messuages, Cottages, Frontsteads, Lands and Tenements in the Township of Nunburnholme, aforesaid, of the third Part.

After Reciting therein, that there were within the Township of Nunburnholme, aforesaid, two large open Clay Fields, one of which is called and known by the Name of the Low Field, and the other is called and known by the Name of Underbills and Becklands; and also two large open Wold Fields, one of which

A

which is called and known by the Name of *Cross-Wolds*, and the other adjoins upon the Lordship of *Warter*, in the said County ; and that there were also in the said Township several Pastures or Commons, some Parts of which are called or known by the several Names of the *Bratts*, the *North Wold*, *Lownin-Dales*, *New-Briggs*, *Sudlands* and *Deep Dale Brows*, and the Names of other Parts thereof are not well known.

And also Reciting, That the said *William Cayley*, in Right of his said Church, was seized of, and intituled to all Manner of Tythes, Oblations, Obventions, and Offerings whatsoever, arising and renewing within the said Township of *Nunburnholme* (except the Tythes, in Kind arising within the Garths in *Nunburnholme*, aforesaid, and four Closes there, one of which is called *Chopping*, and the other three are called *Rauf-Kelds* and *Tythe Hay*, in Kind of the Balks within the said Fields, in lieu of which Tythes in Kind, several antient Composition Rents, amounting in the Whole to the Sum of Two Pounds Eight Shillings and Three Pence, were yearly due and paid to the said Rector) and that the said *William Cayley* was also, in Right of his said Church, seized of and intituled to a Messuage in *Nunburnholme* aforesaid, called the Parsonage-House, with the Cattle, Gates, Sheep-gates, and Right of Common thereto belonging ; and also to two Oxgangs of Glebe Land in the said Fields, to four Beast-gates in the said Pastures or Commons, called the *Bratts* and *North Wolds*, to the Right of cutting Thorns upon a certain Part of the said Pasture or Common, called the *Bratts*, and to a little Garth of Pasture Ground in *Nunburnholme*, aforesaid, called *Lay Garth*, containing about three Rood, adjoining on the Lands of the said Earl, late in the Occupation of *Robert Bedale*, on the East and South, on other Lands of the said Earl, in the Occupation of *Thomas Smith* the Younger, on the West, and on the Town Street on the North.

And Reciting also, That several of the Lands of the said Proprietors and Land Owners lay intermixed and dispersed in small Parcels over the said Fields, and few of them are commodiously situated with respect to the said Proprietors ; and that so long as the said Pastures or Commons laid open and uninclosed, the same were not capable of Improvement ; Therefore, the said Parties to the said Articles (who are Owners and Proprietors of much the greatest Part of the said common Fields and Pastures or Commons, and of the Rights of Common and Depasturing Cattle thereon, and of the old Inclosures and Garths within the said Township of *Nunburnholme*) for the better improving their several and respective Estates and Interests in the said Fields and Pastures, or Commons, did thereby mutually agree to Divide and Inclose the same in Manner therein and herein after mentioned.

And after Reciting, also, in the said Articles, that the said Earl, and several others of the Parties thereto Owners and Proprietors, as aforesaid, had in Lieu of all the Tythes, as well great as small Oblations, Obventions and Offerings arising and renewing within the said Township, and the said four Beast-gates, and his Right of cutting Thorns (except Surplice Fees Mortuaries, and the said Composition Rents, payable for the said Garths, four Closes and Balks, and also except the Tythe-Hay of the rest of the old Inclosures in the Township of *Nunburnholme*, aforesaid, and of certain small
Parcels



parcels of Meadow, lying at the Ends of the Lands, in the said Fields) agreed to give to the said Rector in Money and Lands, to the yearly Amount Seventy-five Pounds Eighteen Shillings and Six Pence, and for the Tythe-Hay the rest of the said old Inclosures, and of the said small Parcels of Meadow, the yearly Sum of Fourteen Pounds; and that the said *William Cayley*, and the rest of the Parties to the said Articles, had agreed, that Lands within the said Fields and Pastures, or Commons, or some of them, of the yearly Value of Thirty Pounds, should be allotted to the said *William Cayley*, and his Successors, Rectors of *Nunburnholme*, aforesaid, in Part of the said Seventy-five Pounds, Eighteen Shillings and Six Pence a Year; and that the Residue thereof, being Forty-five Pounds Eighteen Shillings and Six Pence, should be charged on the Allotments to be made to the several Owners and Proprietors in the said Fields and Pastures, or Commons, except such Part thereof as should be allotted to the said *William Cayley*, of the said yearly Value of Thirty Pounds, and for his Glebe Lands and Common Right belonging to the said Parsonage House; and that the said Sum of Fourteen Pounds a Year should be charged on such of the said old Inclosures within the said Township of *Nunburnholme*, as did not then pay any of the said antient yearly Composition Rents, and on the Allotments to be made in the said Fields (except such Parts as should be allotted to the said *William Cayley*, as aforesaid) in the manner therein and herein after mentioned; and that the said *William Cayley* had, with the Consent and Approbation of the Most Reverend Father in God, *Matthew*, Lord Archbishop of *York*, who, in Right of his Archiepiscopal See, is Patron of the Rectory or Parish Church of *Nunburnholme*, aforesaid, agreed with the rest of the Parties to the said Articles to accept of the said Allotment to be made in Land, of Thirty Pounds a Year, and of the said yearly Composition Rents of Forty-five Pounds Eighteen Shillings and Six Pence, and Fourteen Pounds, and the said antient Composition Rents of Two Pounds Eight Shillings and Three Pence, for and in Lieu and full satisfaction and Discharge of all Manner of Tythes, Oblations, Obventions, and Offerings whatsoever, arising and renewing within the said Township (except Surplice Fees and Mortuaries) from and after the Twenty-fifth Day of *December*, One Thousand Seven Hundred and Fifty-five; and the said *William Cayley* did, by the said Articles, agree, that the said Earl and his Heirs should for ever, from and after the Twenty-fifth Day of *March*, One Thousand Seven Hundred and Fifty-six, hold and enjoy the said Garth, called *Garth*, in Consideration of which, the said Earl thereby agreed, that the lands to be allotted to him in the said Fields and Pastures, or Commons, should from thenceforth, for ever, on every Twenty-fifth Day of *March*, be charged with, and subject and liable to the Payment of the Sum of Ten Shillings a Year, to the said *William Cayley*, and his Successors, Rectors of *Nunburnholme* aforesaid.

And it is by the said Articles agreed, That in case the Commissioners therein and herein after nominated and appointed, and their Successors, or any two of them, should be of Opinion that the Tythe Hay of the said old Inclosures (chargeable with any of the said antient Composition Rents) was not of the yearly Value of Fourteen Pounds, then the several Allotments in the said Fields and Pastures, or Commons (except such Parts thereof of the said yearly Value of Thirty Pounds, as should be allotted to the said *William Cayley*, and the said Glebe Lands to be set forth in Lieu thereof, and of the Common Right

Commissioners, nominated and appointed in that Behalf, and their Successors, or any *Two* — ~~or more~~ of them, in the Manner, and with, under and subject to the Rules, Orders, Provisions, and Directions, herein after directed and appointed, established and prescribed.

And for that Purpose, It is hereby further enacted, That a true and distinct Survey and Admeasurement shall, on or before the *eleventh day of November 1755* — be made by the said Commissioners, or any such Person, or Persons, as they, or any *Two* — of them, shall for that Purpose nominate, of the said Common Fields, Common Pastures, and Common Grounds, so agreed and intended to be inclosed; and of all other the Pastures or Commons, in, or belonging to the said Township of *Nunburnholme* aforesaid; and also of the Falls and Flats, in the said Common Fields, Common Pastures, and Common Grounds, respectively; and that within *12* Months, after the said Survey and Admeasurement shall be made; all the said Common Fields, Common Pastures, and Common Grounds, called the *Low-field Underbills, Becklands, Crofswolds*, and the Field adjoining on *Warter Lordship, Bratts, North-wold, Lownin-Dales, New-Briggs, Sudlands* and *Deepdale Brows*, shall by the said Commissioners, or the Survivors, or any *Two* of them, be set out, ascertained, divided, and allotted unto and amongst the Lord of the said Manor of *Nunburnholme*, and the other Freeholders, and Owners of Lands, lying within the said Township, and the Rector of the said Parish of *Nunburnholme* respectively, in such Manner, as is herein after mentioned; that is to say, in the first Place, there shall be set out and allotted unto and for the said *William Cayley*, Rector of the said Parish Church of *Nunburnholme* aforesaid, and his Successors, Rectors of the said Church, such Parcel or Quantity of Land, lying and being within the said Common Fields, and Common Grounds, so intended to be inclosed and divided as aforesaid, as the said Commissioners, or their Successors, or any *Two* of them, shall adjudge and determine to be of the yearly Value of *30 Pounds* when the same shall be inclosed, to the Intent the said Piece or Parcel of Ground may be annexed to, and held and enjoyed, as Part of the Glebe of, and belonging to the said Rectory for ever; and that the Residue and Remainder of the said Common Fields, Common Pastures, and Common Grounds shall be set out and allotted, unto and for the said Lord of the Manor, the said Rector, and other the Freeholders and Land Owners abovementioned, in such Quantities, Shares, and Proportions, as by the said Commissioners, or their Successors, or any *Two* of them, shall be adjudged and determined to be a full Recompence, Satisfaction, and Equivalent for their several and respective Lands, Grounds, and Common Right in the Common Fields, Common Pastures, and Common Grounds, agreed and intended to be inclosed as aforesaid.

Prohibited always, That nothing herein contained shall extend, or be construed to extend, to empower the said Commissioners, or any of them, to give any undue Preference to the Parties interested in the said intended Inclosure and Division; but that the said Commissioners shall have a due Regard, as well to the Quality, as the Quantity, of the Lands and Grounds so to be allotted respectively; and shall also have a Regard to the Situation and Convenience of the said several Allotments, with respect to the old Inclosures of and belonging to the several Persons, entituled to such Allotments respectively.

Prohibited always, and it is hereby further Enacted and Declared, That all the Lands and Grounds, which shall by Virtue and in Pursuance of this Act, be allotted to, and for the said William Cayley, and his Successors, Rectors of Nunburnholme aforesaid, shall be separated and divided into three Parts, with proper Mounds and Fences, and planted with quick Wood in such Manner, as the said Commissioners, or their Successors, or any of them, shall think proper and requisite; and the separating, fencing, and planting the said Allotments, for the first Time, shall be borne and defrayed by such other Parties, entitled to the several Shares and Allotments of the said Common Fields and Common Grounds, so intended to be enclosed, in such Proportions as the said Commissioners, or their Successors, or any ~~two~~ of them, shall ascertain, direct, or appoint.

And it is hereby further Enacted, That from and after the said 25th day of December 1755 — the ~~several~~ annual Sums, or yearly Rents of ~~Forty five pounds eighteen Shillings and Six pence~~ of lawful Money of Great Britain, free from all Deductions for, or in Respect of any parliamentary, or other Taxes, Assessments, parochial Dues, or other Reprizes whatsoever, shall be vested in the said William Cayley, and his Successors, Rectors of the Parish-Church of Nunburnholme aforesaid, for ever, to be issuing out of, and charged ~~as well~~ upon all the Lands and Grounds so agreed, and intended to be inclosed as aforesaid, ~~as upon the rest of the old Inclosures within the Township of Nunburnholme aforesaid, other than the Garths, the said four Clofes, called Chopping and Rauf-Kelds, and the Balles, within the Fields and also other than, and except the Land and Ground, of the yearly Value of 30 pounds —~~ herein before directed, to be allotted to the said Rector and his Successors as aforesaid, and the Lands to be set out and allotted to him in Lieu of his Glebe-Lands, and Common Right in the said Common Fields, Common Pastures, and Common Grounds, so intended to be enclosed as aforesaid, the said ~~several~~ yearly Sums of ~~Forty five pounds eighteen Shillings and Six pence~~ to be paid, and payable by the several Owners and Proprietors of the Lands, Grounds, and Premises hereby charged, and made chargeable with the same, in such yearly Sums, Shares, and Proportions, with Regard to the Quantity and Quality of the Lands and Grounds, to be assigned and allotted to them respectively upon the said intended Inclosure and Division, as the said Commissioners, and their Successors, or any ~~two~~ of them, shall think just and reasonable, and shall order, direct, and appoint the said yearly Sums, Shares, and Proportions, so to be contributed towards making up and constituting the said ~~two~~ gross yearly Rents, or annual Sums of ~~Forty five pounds eighteen Shillings and Six pence~~ to be paid at, or in the Parsonage-house of Nunburnholme aforesaid, on the Feasts of Saint John Baptist and the Birth of our Lord Christ in every Year, by equal Portions, the first Payment thereof to begin, and be made at, or on the Feast of Saint John Baptist ~~in the year of~~ our Lord One Thousand Seven Hundred and fifty Six

~~Prohibited nevertheless, And it is hereby Enacted, and Declared, That in Case the Tythe-Hay of the said old Inclosures, not charged with, or liable to the Payment of any of the Composition-Rents aforesaid, shall, in the Judgment of the Commissioners, or their Successors, or any of them, be~~
under

Vide Margin

~~under the yearly Value of
same Tythes shall fall short of
charged upon the said Lands and Grounds hereby charged with the said yearly
Sums of
and be contributed and paid by the Owners and Proprietors thereof respectively
for the Time being, as the said Commissioners for the Time being, or any
of them shall order direct, or appoint.~~

And it is hereby further Enacted and Declared, That if any of the said yearly Rents or Sums to be paid, and contributed for the Purposes and in Pursuance of this Act, shall be behind, and unpaid for Days next after any of the Feasts or Days so mentioned, or appointed for Payment thereof, then in such Case, from Time to Time, as often as it shall so happen, it shall and may be lawful to, and for the said *William Cayley*, and his Successors, Rectors of the Parish-Church of *Nunburnholme* aforesaid, into and upon the Premises, charged with the yearly Rent or Sum so behind, and unpaid respectively, to ~~enter & distress~~ and to take, carry away, or otherwise legally dispose of the Distress and Distresses so taken, and also to take and receive the Rents, Issues and Profits of the same Premises, to his and their own Use and Benefit, until thereby, or therewith respectively, or otherwise, all Arrears of the said yearly Sums respectively, due at the Time of such Entry and Distress, and that, during such Possession, shall grow due, and all Costs, Charges and Expences attending such Entry, Distress and Perception of Rents, and all Losses and Damages to be sustained by the said Rector, and his Successors respectively, by Reason of the Non-payment of the said yearly Sums respectively, shall be fully satisfied and paid.

Prohibited always, and it is hereby Enacted and Declared, That if any Farmer, or Occupier, Farmers, or Occupiers of Lands within the Township of *Nunburnholme* aforesaid, shall quit, leave, or depart from his, or their respective Farms or Tenements, at *Lady Day or May Day 1756* — and according to the Course of Husbandry there used, shall be entitled to the Summer Crop in, and upon the Premises so quitted or left, then, and in such Case, the Landlord and Landlords of every such Tenant so quitting or leaving his, and their Farm, and Farms respectively, shall be entitled to, and may, and shall take such Tythes in Kind of the said Crop, and shall have such, and the same Remedies for gathering, collecting, and taking the same, as the Rector of the said Parish Church of *Nunburnholme* could, or might have had, and taken respectively, in Case this Act had not been made.

And it is hereby further Enacted, That within *Twelve* Calendar Months after the said Division and Allotments shall be made of the Lands and Grounds so intended to be inclosed, as aforesaid, the said Commissioners, or their Successors, or any *Two* — of them, shall form and draw up an Award, or Instrument, in Writing, which shall express, denote, and contain the Quantities and Contents, in Statute Measure, as well of the said Old Inclosures so directed to be surveyed, as of the several Common Fields, Common Pastures, and Common Grounds, so proposed and intended to be inclosed, as aforesaid; and the Quantity and Contents of each, and every Parcel thereof, assigned and allotted to the respective Parties upon such Partition and Division, in Pursuance of this present Act; and a Description of the Situation, Buttals, and

and Boundaries of the same Parcels and Allotments respectively, and Orders, and Directions for fencing the same, and for laying out, and making proper Roads, Ways, Passages, and Water-Courses, in, over, and through the same Premises; and shall also express and ascertain the several yearly Sums to be paid and contributed by the respective Parties, towards making up and constituting the said ~~several~~ yearly Rents, or annual Sum, hereby vested in, and directed to be paid to the said Rector of *Nunburnholme*, and his Successors, as aforeaid, and shall also contain such other Orders, Regulations, and Determinations as shall be proper and necessary to be inserted therein, according to the Tenor and true Meaning of the said Articles, and this present Act; and that the said Instrument shall be fairly engrossed, and written upon Parchment, and sealed and delivered by the said Commissioners, or their Successors, or any *Two* of them, and shall be enrolled in the public Register-Office, established at *Beverly*, by an Act of Parliament made in the Sixth Year of the Reign of her late Majesty Queen *Anne*, for the publick registering of Deeds and Wills, in the East-Riding of the County of *York*; and the Register of the said Office, or his Deputy for the Time being, is hereby required to enroll the same in the proper Book for enrolling of Bargains and Sales of Lands; and a true Copy of such Enrollment, under the Hand of the said Register, or his Deputy, shall, from Time to Time, be admitted and allowed in all Courts whatsoever, as legal Evidence of the same.

And it is hereby further Enacted and Declared, That the said Parcel or Quantity of Land of the yearly Value of *30 Pounds* — herein before-directed to be set out and allotted to and for the said Rector, and his Successors, to be held as Part of his Glebe, as aforeaid; and the said several annual Rents, or yearly Sums, hereby vested and directed to be paid to him and them, and also the Lands and Grounds to be allotted to him and them in Lieu, or in Respect of the Glebe Lands of the said Rectory, lying, and being in the said Common Fields, Common Pastures, and Common Grounds, so to be inclosed and divided, as aforeaid, shall be in Lieu, Satisfaction, and Compensation, as well of and for the said Glebe Lands, as also of and for all his and their Right of Common, and all Tythes, of what Nature or Kind soever, coming, growing, renewing, or arising within the Township of *Nunburnholme*, as aforeaid; and that immediately after the said Division and Allotments of the said Common Fields, Common Pastures, and Common Grounds, shall be made, and the said Award or Instrument shall be executed, as aforeaid, all Tythes and Right of Common, of what Nature or Kind soever, of, or belonging to, or to be claimed by, the said Rector and his Successors, within the Township aforeaid, shall cease, determine, and be extinguished.

Provided always, That nothing in this Act contained shall prejudice, defeat, or impeach, the Right, Title, or Interest of the said Rector, or his Successors, to any Mortuaries, Easter-Offerings, or Surplice Fees, or Duties arising within the said Township of *Nunburnholme*.

And it is hereby further Enacted, That the said Garth, or Parcel of Pasture Ground, called *Laygarth*, in *Nunburnholme*, aforeaid, whereof the said *William Cayley* is herewith before-mentioned to be seised in Right of his said Church, with the Rights, Members, and Appurtenances thereof, shall, from and after the said *25th Day of March 1756* — be vested

vested in, and the same is hereby from henceforth vested in the said *Henry*, Earl of *Carlisle*, and his Heirs, freed and discharged of, from, and against all the Estate, Right, Title, Interest, Claim, and Demand of the said *William Cayley*, and his Successors, Rectors of *Nunburnholme*, aforesaid, for ever; and that in Lieu and Stead thereof, and as a Compensation for the same, all the Lands and Grounds, which, by Virtue, and in Pursuance of this Act, shall be allotted to the said Earl, within the Common Fields and Common Grounds, so to be inclosed, as aforesaid, shall, from thenceforth, be subject to, and are hereby charged with a perpetual yearly Rent-Charge of *Ten Shillings* — of lawful Money of *Great-Britain*, free from all Deductions and Reprizes whatsoever, over and above the yearly Rent of *Forty five pounds — Eighteen Shillings and Sixpence* — herein before vested in the said Rector and his Successors, as aforesaid, the said yearly Rent of *Ten Shillings* — to be paid at the several Feasts, or Days, herein before limited, and appointed for Payment of the — yearly Rents, last above-mentioned, in every Year for ever.

And it is hereby Enacted and Declared, That the said Rector and his Successors shall have such and the same Remedies for securing, recovering, and enforcing the Payment of the said yearly Rent of *Ten Shillings* — as are hereby given to him and them, for securing and recovering the two other yearly Rents so vested in him by this Act.

And it is hereby further Enacted and Declared, That the several Lands and Grounds so to be divided, assigned, and allotted unto, and for the said Lord of the Manor of *Nunburnholme*, and other the Owners of Lands within the said Manor and Township of *Nunburnholme*, in Pursuance of this Act, shall be a full Recompence, Satisfaction, and Equivalent for their several and respective Lands, Grounds, Common-Right, and Interest in the said Common Fields, and Common Grounds, so intended to be divided and enclosed, as aforesaid; and that immediately after the said Division and Allotments shall be made, and such Award or Instrument signed and executed, as aforesaid, all Right of Common belonging to, or claimed by all and every, or any Freeholder or Freeholders, Owner or Owners of any Lands, Tenements or Hereditaments, in the Manor and Township of *Nunburnholme* aforesaid, shall cease and be extinguished.

And it is hereby further Enacted and Declared, That the Costs and Charges incident to, and attending the obtaining this present Act, and of the surveying, dividing, and allotting the Lands and Grounds so intended to be inclosed, as aforesaid, and the preparing and enrolling the said Award, or Instrument, and all the Charges and Expences of the Commissioners, and other necessary Expences in, about, and concerning the Premises, shall be borne and defrayed by the several Persons to whom the said Common Fields and Common Grounds so to be inclosed, shall be respectively allotted (other than, and except the said *William Cayley*, and his Successors, Rectors of the Parish-Church of *Nunburnholme* aforesaid) to be settled, adjusted, and ascertained by the said Commissioners or their Successors, or any *Two* — of them, either in Proportion to the Value, or the Quantity, of Lands and Grounds so to be assigned and allotted to the said Parties respectively, as to the said Commissioners

missioners and their Successors, or any *Two* _____ of them shall seem meet and expedient.

And it is hereby Enacted and Declared, That the said *William Cayley*, and his Successors, shall be totally exempted, discharged, and indemnified from any Share, Proportion, or Contribution of the Charges and Expences above-mentioned; and that the Charges and Expences of setting out and inclosing the Land and Ground to be allotted to the said *William Cayley*, and his Successors, Rectors of the Church of *Nunburnholme*, to be annexed to and held as Part of the Glebe, as aforesaid, shall be borne and defrayed by the several other Persons to whom the other Lands and Grounds so to be inclosed, as aforesaid, shall be allotted respectively in such Proportions, as aforementioned.

And it is hereby further Enacted, That if any Person or Persons shall refuse, or neglect to pay his, her, or their Share or Shares, Proportion or Proportions of the Costs and Charges so to be settled and ascertained by the said Commissioners, as aforesaid, for the Space of six Months after such Time as the said Commissioners, or their Successors, or any *Two* _____ of them shall limit, direct, or appoint for Payment thereof, then, and in such Case, the said Commissioners and their Successors, or any *Two* _____ of them; shall, and may, by Warrant, or Warrants, under their Hands and Seals, cause the same to be ~~levied by Distress or Distressive Sale or Sales~~ of the Goods and Chattles of the Person, or Persons, so neglecting, or refusing, as aforesaid, rendering the Overplus (if any after the Charges, or Expences, attending such Distress shall be deducted) to the Person on whom such ~~distress or distressive~~ shall be respectively made, or otherwise it shall, and may be lawful to, and for the said Commissioners and their Successors, or any *Two* _____ of them to enter into, and upon the Premises so to be allotted to such Person so refusing or neglecting to pay, as aforesaid, and take, and receive the Rents, Issues, and Profits thereof respectively, until thereby, or therewith, the Share or Shares, Proportion or Proportions, of the said Costs and Charges so to be directed, awarded, and appointed by the said Commissioners to be paid by such Person or Persons, as aforesaid, and also all Costs, Charges, and Expences occasioned by, or attending such Entry upon, and Perception of the Rents and Profits of the same Premises, shall respectively be fully paid and satisfied.

And it is hereby further Enacted, That when the Lands and Grounds directed and appointed by this Act to be inclosed, as aforesaid, shall be set out, ascertained and allotted by the said Commissioners, or their Successors, or any *Two* _____ of them, by such Instrument or Writing, as aforementioned, the several Persons to, and for whom the same Lands and Grounds shall be allotted and set out respectively (other than the said *William Cayley*, and his Successors, Rectors of the Parish Church of *Nunburnholme* aforesaid) shall, within *Twelve* Months after the signing and sealing of the said Instrument or Writing, and Notice given thereof in the Parish Church of *Nunburnholme*, as aforesaid, at their own Expence respectively inclose, hedge, ditch, and fence their several Lots, Shares, and Proportions of the same; and also, such Parcel of Land or Ground as shall be set out and allotted to, and for the said Rector and his Successors, as Part of the Glebe, as aforesaid, in such
Manner

Manner as the said Commissioners and their Successors, or any *Two* of them, shall order, direct, or appoint.

And it is hereby further Enacted, That the said Commissioners, and their Successors, or any *Two* of them, shall and may, and they are hereby authorized and impowered, to set out and appoint, publick and private Ways and Roads, in, over, and upon, the said Lands and Grounds, so appointed to be inclosed as aforesaid, so as all publick Highways or Roads, so to be set out, be of the Breadth of *40*—Feet at least, between and exclusive of the Ditches; and also to set forth and appoint all the Ditches, Fences, Drains, Bridges, Gates and Stiles, to be made, erected, and set upon the Lands and Grounds so to be inclosed, or any Part thereof; and to order, award, and adjudge, by whom, and in what Manner, the same shall respectively be from Time to Time repaired, maintained, and kept in Repair: And also to divide and alter the Course of any of the Springs, Streams or Currents of Water, within any Part of the Common Fields, or Common Grounds, so appointed to be inclosed for the conveying of Water, to or for the Benefit of the several Allotments, to be made in Pursuance of this Act.

And it is hereby further Enacted, That, after the said Highways and Roads shall be so set out as aforesaid, it shall not be lawful for any Person or Persons on Foot, or on Horseback, or with any Beast, Coach, Cart, Waggon, or other Carriage whatsoever, to use any other Way, or Road, in or over the said Fields, and Pastures, or Commons, but such Highways and Roads, as by the said Commissioners and their Successors or any *Two* of them shall be so ascertained, laid out, and appointed as aforesaid; and that all such publick and common Highways, when so ascertained, laid out, and appointed as aforesaid, shall, from Time to Time, be repaired by the Township of *Nunburnholme* aforesaid, in such Manner as hath been heretofore accustomed, and as by the Laws of the Realm they are obliged to repair the same.

Provided always, and be it further Enacted, by the Authority aforesaid, That any Proprietor or Owner of any of the intended new Inclosures, during *Seven* Years, from and after the making the said Award, by the said Commissioners, and their Successors, or any *Two* of them as aforesaid, may set up a Gate, or Gates, cross any Part or Parts of the publick or private Roads or Lanes, against his or their Lands, to prevent Cattle destroying any Fence, which shall be planted for enclosing any Parts of the said Fields and Pastures or Commons, the said Proprietor or Owner (other than the said *Henry*, Earl of *Carlisle*, or the Lord or Lords of the said Manor, for the Time being) disclaiming all Right or Property in or to the Soil of every publick Lane or Road, now being, or to be, in, upon or through the said Fields and Pastures or Commons.

And whereas it is requisite that some convenient Time should be fixed for every Person, entitled to any Part of the said new intended Inclosure, to accept of their respective Allotments and Shares; Be it therefore enacted, by the Authority aforesaid, that all, and every such Person and Persons, shall, and they are hereby required to accept his and their respective Allotments and Shares, within the Space of _____ after the Execution of the said Award or Instrument, and Notice given in the Parish Church of *Nunburnholme* aforesaid,

aforesaid, on a *Sunday* after Divine Service for that Purpose; and in Case any Person shall neglect or refuse to accept his Share or Allotment, within the Time aforementioned, such Person, so neglecting or refusing, shall be totally excluded from having or receiving any Benefit or Advantage by this present Act; and also from any Estate, Interest, or Right of Common whatsoever, in any of the Lands or Grounds assigned or allotted to any other Person or Persons, by Virtue of this Act.

Prohibited always, and it is hereby Enacted, by the Authority aforesaid, That Executors in Trust, Guardians, Husbands, or Trustees of, or for any Person, or Persons under Age, or otherwise incapable by Law, to accept such Allotments as shall be made by the said Commissioners, and their Successors, or any *Two* ——— of them, shall be, and are hereby, required, and enabled to accept thereof, for and to the use of such Person or Persons; and such Acceptance shall be, and is hereby declared to be as valid and effectual, as if the said Persons had been of Age, or capable of acting for themselves.

Prohibited nevertheless, that the Non-claim, or Non-acceptance of any Guardian, Husband, Committee, Trustee, or Attorney, shall not exclude or prejudice the Claim or Acceptance of any Infant, Feme Covert, or other Person, under such Disability or Incapacity as aforesaid, who shall claim or accept within one Year after such Disability or Incapacity removed, or of any Person or Persons, entitled as Heir or in Remainder, after the Death of any Person dying under such Disability or Incapacity, who shall claim or accept within one Year after his, her, or their Right, Title, or Interest shall have descended, vested or accrued.

And it is hereby further Enacted, and Declared, That nothing in this Act contained shall extend or be construed, deemed or taken, to revoke, make void, alter or annul any Deed, Will, Settlement or Lease, or to prejudice any Person having or claiming any Jointure or Dower, Portion, Debt, Charge or Incumbrance out of, upon, or affecting any of the Fields, Pastures or Commons, so intended to be divided and inclosed as aforesaid, or any Part thereof respectively: But that the several Lands and Grounds, so to be assigned or appointed upon such Inclosure and Division to the several Parties in Pursuance of this Act, shall immediately after such Allotment be, remain, and endure, and be held and enjoyed, and the several Persons, to whom the same respectively shall be allotted, shall from thenceforth stand, and be seized thereof, to such and the same Uses, and to and for such and the same Estates, and subject to the same Wills, Leases, Limitations, Conditions, Estates, Jointures, Charges, Trusts, Rents, Services and Incumbrances, as the several Lands and Grounds in Respect whereof such Allotments shall, by Virtue of this Act, be so made and assigned, should and would have been subject and liable to, charged with, and affected by, in Case the same had remained uninclosed, or this Act had not been made

And it is hereby further Enacted and Declared, That in all future Rates and Levies to be made in the said Township of *Nunbarnholme*, the Lands to be allotted to the said *William Cayley*, and his Successors as aforesaid, and the said several yearly Sums or Composition Rents, shall be assessed in the same Proportion,

Proportion, and after the same Rate as the said Parsonage-House, Glebelands, Tythes and antient Composition Rents are now assessed at

Prohibited also, And be it further Enacted, by the Authority aforesaid, that nothing herein contained shall be construed to defeat, lessen, or prejudice the Right, Title or Interest of him, the said *Henry*, Earl of *Carlisle*, of, in, and to the Seignory and Royalties incident, and belonging to the Manor of *Nunburnholme* aforesaid; but the said *Henry*, Earl of *Carlisle*, and all, and every Person and Persons claiming under him, as Lord of the said Manor for the Time being, shall and may, from Time to Time, and at all Times for ever hereafter, hold and enjoy all Rents, Services, Courts, Perquisites, and Profits of Courts, Mines, Goods and Chattles, of Felons and Fugitives, Felons of themselves, and Persons put in exigent Deodands, Waifs, Estrays, Forfeitures, and other Royalties and Seignories to the said Manor, or to him, them, or any of them, as Lord or Lords thereof, incident, appendant, belonging, or appertaining (other than and except such common Right as could or might be claimed by him or them respectively, as Lord or Lords of the said Manor, or otherwise, in and upon the Premises so intended to be divided and inclosed) in as full, ample, and beneficial Manner, to all Intents and Purposes, as he or they could, or might have had, held, and enjoyed the same, in Case this Act had not been made.

And be it further enacted, by the Authority aforesaid, that before any Meeting of the said Commissioners, authorized by this Act, to put the same in Execution, as to the Division and Allotment of the said Fields and Pastures, or Commons, and proportioning the said several yearly Sums, Notice in Writing under their Hands, or under the Hands of any *Two* of them, shall be given and published on some *Sunday* in the Parish Church of *Nunburnholme*, aforesaid, immediately after Divine Service, of the Place and Time where and when the said Commissioners, or any *Two* of them, intend to meet, in order to put this Act in Execution as aforesaid, and such Notice shall be given *Ten* Days before such Meeting; and when and after such Commissioners and their Successors, or any *Two* of them, shall have met according to such Notice, such Commissioners and their Successors, or any *Two* of them so met, are hereby impowered and authorized to adjourn and continue such Meeting by Adjournments from Time to Time, for the due Execution of this Act, without any other Notice being given; but if any Meeting of the said Commissioners shall be, and such Meeting shall not be continued by Adjournment, then such Notice as aforesaid shall be given from Time to Time, as is before directed, before any other such Meeting of such said Commissioners shall be, in Order further to put this Act in Execution.

And be it further enacted, by the Authority aforesaid, That if any one or more of the said Commissioners herein before appointed, or to be elected in Manner herein after mentioned, shall happen to die, or refuse to act, before any Award and Determination shall be made and finished by them, or any of them, as aforesaid, then the surviving or acting Commissioners or Commissioner shall, and are, and is hereby impowered and required, from Time to Time, within *One Month* after any Commissioner shall so die, or refuse to act, by writing under their or his Hands and Seals, or Hand and Seal, to elect and chuse some other Person or Persons, not interested in the said Township of

Nunburnholme, who shall be Commissioner or Commissioners in the Place or Places of such Commissioner or Commissioners, who shall die, or refuse to act; and such Person or Persons so to be elected and chosen, shall have the same and like Powers and Authority, by Virtue of this Act, as the Commissioner or Commissioners in whose Place or Places he or they shall succeed, was or were severally invested with; and in the mean Time, or in Default of such Election, the surviving or acting Commissioners or Commissioner, shall proceed in and about compleating and finishing the said intended Division and Inclosure, and in executing all other Powers hereby in them vested.

And be it further Enacted, by the Authority aforesaid, that the Charges and Expences in surveying and measuring the said Fields and Pastures, or Commons, and the old Inclosures in the said Township of *Nunburnholme*, and all the Charges of the said

or their Successors, in, and about making of their said Award, and also, the Charges and Expences of enrolling the Award, as herein after is mentioned, and directed, and all other incidental Charges and Expences whatsoever, which they the said or their Successors, or any other Person or Persons, shall be at, for, or by Reason of the said intended Division and Inclosure, and in carrying the said Articles into Execution, and of obtaining and passing this present Act, shall be jointly borne and paid by every respective Owner and Person interested in the said Fields and Pastures, or Commons, by an equal Rate upon every Acre of Land, so intended to be divided and inclosed, according to the full Value thereof, or according to the Proportion of Acres every particular Owner, or Person interested, shall have in the said Fields, and Pastures, or Commons, to be divided and inclosed, as aforesaid, for his Share and Part thereof, which by the said Commissioners, or their Successors, or any *Two*—of them, shall be thought most equal; which Rate the said Commissioners, or their Successors, or any *Two*—of them, are hereby impowered to make; and in Case any Owner or Owners shall refuse or neglect to pay such Rate, within the Time limited, by the said Commissioners, and their Successors, or any *Two*—of them, to such Person or Persons, as they shall appoint, then the said Commissioners, or their Successors, or any *Two*—of them, may, by Warrant, under their Hands and Seals, cause the same to be *levied by Distress of the Goods and Chattles of the Proprietor* or Proprietors respectively refusing or neglecting to pay the same, as aforesaid, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattles (the reasonable Charges in and about every such *Distress* being first deducted and paid)

Provided always, that the Glebe Land or Lands to be allotted in Lieu thereof, and of the said Common-Right belonging to the said Parsonage-House, or the Lands of *Thirty pounds* — a Year to be allotted to the said *William Cayley*, and his Successors, Rectors of *Nunburnholme* aforesaid, or the said several yearly Sums, or Composition Rents, or any of them, or the said *William Cayley*, or his Successors, Rectors of *Nunburnholme* aforesaid, for, or in Respect of any of them, shall not be charged, or chargeable with, or contribute to any the Charges or Expences aforesaid; and the said *William Cayley* and his Successors, Rectors of *Nunburnholme* aforesaid, shall be totally exempted, discharged, and indemnified from any Share or Proportion of the Charges abovementioned.

Saving

Having always to the King's Most Excellent Majesty, his Heirs, and Successors, and to all and every other Person and Persons, Bodies politic and corporate, his and their Heirs, Successors, Executors, and Administrators, (other than the Lord of the Manor of *Nunburnholme* for the Time being, and all other Person and Persons entitled to any Right of Common, in, and on the said Fields and Pastures, or Commons of, and in the said Township of *Nunburnholme*, in the said Manor, his and their Heirs, Successors, Executors, and Administrators respectively) all such Right, Title, and Interest, as they every, or any of them had, and enjoyed of, into, or out of the said Fields, and Pastures, or Commons, so intended to be divided and inclosed, as aforesaid, before the passing of this present Act, or could, or might have had and enjoyed, in Case this Act had not been made.

47

A BILL for Dividing and Inclosing several OPEN FIELDS, and PASTURES, or COMMONS, in the Township of Nunburnholme, in the County of YORK.

1755.

7

